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October 25, 2022

BY ECF

Honorable James R. Cho
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Saul Sabino v. Chairperson of Division of NYS Parole, et al.,
20-CV-5861 (EK) (JRC)

Your Honor:

I am the attorney in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, representing defendant City of New York in the above-referenced matter. The City writes, on behalf of the parties, in accordance with the Court's October 11, 2022 order to provide an update as to the status of settlement negotiations. See Civil Docket Sheet, Entry dated October 11, 2022.

By way of background, on October 11, 2022, a status conference was held wherein the parties informed the Court that they had begun settlement discussions to resolve this matter. Id. At that conference, plaintiff indicated that he wanted a "global resolution" of all his pending claims, including the claims which had been filed with the New York City Office of the Comptroller ("Comptroller's Office"). Id. Moreover, at the conference, plaintiff provided several different claim numbers for pending claims that had been filed with the Comptroller's Office. Id. Following that conference, on October 14, 2022, the undersigned and plaintiff conferred by video-conference call to discuss settlement. During that meet and confer, plaintiff provided the undersigned with an additional (4) Comptroller claim numbers.

Although the undersigned previously represented that the City was willing to engage in settlement discussions, and indeed, has obtained authority to resolve the matter, upon further investigation, the undersigned discovered two (2) additional prior Notice of Claims which the Comptroller's Office had settled with plaintiff on January 9, 2021, and November 27, 2021. In connection with those Notice of Claim ("NOC") settlements, plaintiff executed General

Releases which, consequently, bar the instant action in its entirety as it relates to the City of New York and any City employees who may later be identified by plaintiff. As such, defendant has filed a supplemental pre-motion conference letter with Judge Komitee, informing the Court that it intends to move to dismiss on these additional grounds. See Civil Docket Sheet, Entry No. 55.

Upon information and belief, plaintiff contends that any general release signed in connection to the NOC settlements are invalid, as he was induced to signing them under false pretenses and fraud. As such, plaintiff states that he would prefer to continue settlement discussions as he feels there is no legally enforceable documents precluding him from recovering damages for the claims in the Amended Complaint., and further requests that a “special master” be appointed to decide the issue of the waiver language in the NOC settlements.¹

The Office of the Attorney General (“OAG”), currently representing former Senior Patrol Officer James Ogle, agrees with the City that settlement negotiations may not be appropriate at this time. Defendant Ogle has a fully submitted Motion to Dismiss pending and the OAG will be unable to authorize settlement funds on his behalf prior to this motion being decided.

The parties thank the Court for its time and attention to this matter.

Respectfully submitted,

Mostafa Khairy /s/
Mostafa Khairy
Assistant Corporation Counsel
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cc: **BY U.S. MAIL**
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BY ECF
Andrew Blancato
New York State Office of the Attorney General
Attorney for Defendant James Ogle

¹ Plaintiff’s contentions were made known to Assistant Attorney General Andrew Blancato via telephone call on October 21, 2022 and October 25, 2022, and his permission was given to write the above-referenced statements.